

INFORMATION LETTER

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Effectiveness of N.C.A. Claims Service in Handling Product Liability Cases Described by Canner's Attorney

The operation of the N.C.A. Claims Service and reasons for its effectiveness in protecting the integrity and reputation of canned foods are described in a paper entitled "How One Canner Handles Product Liability Claims" recently delivered at a meeting of the American Bar Association.

Although reflecting only the experience of one canner, the paper explores "a basic policy that most cannery have individually come to adopt" with regard to product liability claims—to utilize the N.C.A. Claims Service with its prompt and thorough investigation and vigorous defense of fraudulent and exaggerated claims.

The paper was written by Melvin E. Mensor, manager of the Legal Department of the California Packing Corporation. It describes the policies and procedures of that company in handling product liability claims, and was published in the October issue of *Food Drug Cosmetic Law Journal*. Reprints of Mr. Mensor's paper are being obtained by N.C.A. and will be mailed to each member.

In describing the origin and development of the N.C.A. Claims Service, Mr. Mensor said:

"N.C.A. has developed for its members and for distributors of their products a comprehensive service which provides without additional charge for the investigation of complaints of illness or injury ascribed to members' products. This service also provides for the employment of legal counsel, without charge to the members, for the defense of suits for damages which, in the opinion of the association's general counsel, are unfounded or unjust.

"The fundamental purpose of N.C.A.'s activities in the investigation of complaints, and in contesting those which are believed to be unfounded and which result in a law suit, is to protect the integrity and reputation of canned foods generally. If unfounded or unjustified claims are permitted to go unchecked, the reputation of and public confidence in the products of the industry will suffer. It is for this reason that N.C.A. seeks to provide for its individual members and the distributors of their products full and complete investigation of complaints, appraisal of the merits of claims for damages, and legal defense of suits in

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1952 Pack of Sweet Corn

The 1952 pack of sweet corn amounted to 38,212,332 actual cases, 27 percent above the 1951 pack of 30,188,540 cases and 11 percent, or almost 4 million cases, above the previous record pack of 1948, according to a report by the N.C.A. Division of Statistics.

On the basis of 24/2's, the 1952 pack amounted to 32,328,000 cases as compared with 25,576,000 cases in 1951.

Three midwestern states—Wisconsin, Minnesota, and Illinois—this year accounted for 61.1 percent of the total U. S. pack. The same three states last year accounted for 55.1 percent of the total pack.

All of the major midwestern corn-canning states showed increases over their 1951 packs. The largest percentage increase was reflected in the pack of Iowa and Nebraska, up 81 percent over 1951. The Wisconsin pack was up 64 percent, Minnesota 37 percent, Ohio 23 percent, Illinois 20 percent, and Indiana 11 percent.

On the other hand, the sweet corn pack in the eastern states was down 4 percent from 1951. Only one eastern state—New York—showed an increase in 1952, up 14 percent. The pack in Maine, Vermont, and New Hampshire was down 23 percent, Pennsylvania 19 percent, and Maryland and Delaware 1 percent from 1951.

The pack in the western states was only 60,000 cases less than the 1951 pack in that area.

The trend toward increased use of the No. 303 can continued this year, with 64.1 percent of the total pack in

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Estimated Production of 1952 Food Crops

Favorable-to-ideal harvest conditions during October speeded harvest to early completion and improved out-turns of many late-growing crops, according to a report by the Bureau of Agricultural Economics covering November 1 conditions.

With the second largest corn crop in prospect, totaling 3,303 million bushels, the total expected volume of crop production continued to move upward to only 2.5 percent below the 1948 record. These same conditions, however, were highly unfavorable for seeding and development of fall-sown grains.

Vegetables for Processing

Estimates for 10 crops representing about 96 percent of the total vegetables for processing indicate a total of 6.15 million tons, about a sixth less than the 7.22 million tons obtained in 1951 but a sixth above the average of 5.32 million tons for the 1941-50 period.

This year's production is expected to be smaller than the 1951 production for all crops except sweet corn, fall crop spinach, and cucumbers for pickles. The prospective 1952 produc-

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Defense Production Act

The Joint Committee on Defense Production has scheduled an open hearing November 19 to receive testimony from Tighe Woods, the Director of Price Stabilization, on the activities of his agency. It is presumed that Mr. Woods will discuss the series of meetings he held in September and October with housewives in 10 cities.

Senator Capehart (Ind.), who is expected to be Chairman of the Senate Committee on Banking and Currency in the 83rd Congress, has announced that this Committee will plan to start hearings on price and wage controls about February 1. Price and wage controls will terminate April 30 under present law.

STATISTICS

Lima Beans for Processing

The preliminary estimate of the 1952 production of lima beans for canning, freezing and other processing is 88,510 tons, according to the Bureau of Agricultural Economics. This compares with 95,120 tons obtained in 1951 and an average of 50,910 tons for the 1941-50 period.

The 1952 planted acreage is estimated at 102,150 acres, compared with 111,500 acres planted in 1951 and an average of 80,360 acres for the 10-year period.

Harvested acreage this year is 98,400 acres, compared with 107,100 acres harvested in 1951 and an average of 74,460 acres for the preceding 10 years.

The estimated 1952 yield is 1,799 pounds per acre. This compares with 1,776 pounds obtained in 1951 and an average of 1,314 pounds for the 1941-50 period.

State	1951	
	Revised	1952
—(tons, shelled)—		
New York.....	2,690	3,040
New Jersey.....	9,580	9,920
Pennsylvania.....	2,850	2,620
Ohio.....	240	120
Michigan.....	2,120	1,200
Wisconsin.....	3,840	4,600
Delaware.....	18,340	13,660
Maryland.....	3,170	2,090
Virginia.....	3,180	2,340
Washington.....	1,720	1,440
California.....	32,090	32,600
Other states ¹	15,330	14,850
U. S. Total.....	95,120	88,510

¹ Ark., Colo., Ga., Idaho, Ill., Ind., Iowa, Ky., Minn., Mo., Okla., Ore., Tenn., and Utah.

Spinach for Processing

The indicated 1952 production of fall-crop spinach for processing is 14,670 tons, 6 percent more than the 13,870 tons harvested in 1951 but 34 percent below the 10-year average of 22,310 tons.

The 1952 fall acreage for processing is estimated at 4,000 acres compared with 4,300 in 1951 and an average of 9,780 for the 1941-50 period. Most of the reduction in acreage, compared with last year, is in Oklahoma, where dry weather curtailed plantings.

The total 1952 production of spinach for processing is reported at 98,020 tons, compared with 111,470 tons in 1951 and a 10-year average of 86,660 tons. This covers the winter

processing crop in California and Texas and both the spring and fall processing crops in Virginia, Maryland, Arkansas, Oklahoma, and New Jersey.

State and Seasonal Group	Acreage		Production	
	1951	1952	1951	1952
(acres) (tons)				
Texas				
Winter.....	3,000	5,000	3,300	7,000
California				
Winter.....	11,500	10,300	71,300	58,700
Virginia.....	1,250	1,000	3,750	3,000
Spring.....	800	600	2,400	1,800
Fall.....	450	400	1,350	1,200
Maryland.....	1,030	900	2,220	1,470
Spring.....	680	500	1,700	750
Fall.....	350	400	520	720
Arkansas.....	5,150	5,000	7,300	6,440
Spring.....	4,850	4,300	6,800	5,600
Fall.....	300	700	500	840
Oklahoma.....	7,800	5,750	13,100	10,130
Spring.....	6,700	5,300	12,100	9,500
Fall.....	1,100	450	1,000	630
New Jersey				
Fall.....	2,100	2,050	10,500	11,280
Total, 7 states.....	31,830	30,000	111,470	98,020
Winter and Spring.....	27,530	26,000	97,600	83,350
Fall.....	4,300	4,000	13,870	14,670

Cucumbers for Pickles

Preliminary estimates by the Bureau of Agricultural Economics place the 1952 production of cucumbers for pickles at 14,033,000 bushels. This compares with 11,248,000 bushels produced in 1951 and an average of 8,824,000 bushels for the 1941-50 period.

Total stocks of salt and dill pickles in tanks and barrels on October 1 are estimated at 10,629,000 bushels, 13 percent more than the revised estimate of 9,423,000 bushels for October 1 last year and 19 percent above the 1941-50 average holdings of 8,911,000 bushels.

Stocks from the 1952 crop are estimated at 10,062,000 bushels, 13 percent above the 8,010,000 bushels for October 1, 1951, and 42 percent more than the 10-year average.

The carryover from previous years on October 1, 1952, is reported at only 567,000 bushels, 60 percent less than the 1,413,000 bushels on the same date last year and 67 percent below the 10-year average carryover for that date.

Pimientos for Processing

Preliminary reports to the Bureau of Agricultural Economics indicate a 1952 production of 9,800 tons of pimientos for processing in Georgia. This does not include tonnage grown in other states for Georgia processors.

The preliminary 1952 estimate is 36 percent below the Georgia produc-

tion for 1951 and 42 percent below average for the 1941-50 period.

Reports as of November 1 show 16,000 acres planted and 13,000 acres harvested in Georgia this year. The crop was hard hit by extremely dry and hot weather and many fields were abandoned. A killing frost on October 21-22 stopped production over the entire Georgia pimiento area. The average yield per harvested acre was only 0.75 tons compared with 0.85 tons in 1951 and a 10-year average of 1.14 tons.

Sweet Potato Production

Harvest of sweet potatoes nears completion and yields are below pre-harvest expectations. The 29,362,000 bushel crop now indicated by the Bureau of Agricultural Economics is 4 percent larger than last year's unusually small production but 49 percent below the 1941-50 average.

Continued dry weather during October and the killing of vines in some states by earlier-than-usual frosts prevented sweet potatoes from sizing as expected. Dry weather has made harvest difficult, especially in heavy soils.

Following are November 1 production indications for selected states:

	1951	1952 Preliminary
	(thousand bushels)	
Maryland.....	600	700
Virginia.....	2,210	2,210
New Jersey.....	2,310	2,170
Louisiana.....	6,400	7,600
Mississippi.....	1,320	1,440
Alabama.....	1,365	1,200

Production of Potatoes

Harvest of potatoes is nearing completion and the national crop is placed at 349,257,000 bushels by the Bureau of Agricultural Economics. Indicated production is 7 percent above the short crop of 325,708,000 bushels harvested in 1951 but 15 percent below average.

Losses from frosts and freezes have been light this year and have generally been confined to local areas. Quality of tubers is also good. The crop now indicated is 3.7 million bushels larger than expected on October 1, with the late areas in all parts of the country contributing to this increase. The U. S. yield of 246 bushels per acre has been exceeded only by the record yield of 253 bushels harvested in 1950.

1952 Pack of Sweet Corn

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this container in 1952 compared with 61.3 percent in 1951. Only 1.1 percent of the 1952 corn pack was reported in No. 2 cans compared with 4.4 percent in 1951. Use of No. 10 cans for sweet corn increased to 7.5 percent of the total pack in 1952 from 6.1 percent in 1951.

1952 Corn Pack by Container Size

Can Size	—1951—		—1952—	
	(actual cases)	(percent)	(actual cases)	(percent)
No. 2	1,332,017	4.4	428,105	1.1
No. 10	2,440,410	8.1	3,045,727	8.0
No. 1 Pienie	340,079	1.8	337,714	0.9
No. 2 Vacuum	5,438,714	18.1	6,954,003	18.2
No. 303 & 300	18,509,984	61.3	24,506,632	64.1
No. 10	1,835,171	6.1	2,840,831	7.5
Misc. tin & glass	72,165	0.2	70,280	0.2
U. S. Total	30,188,540	100.0	38,212,332	100.0

Of the total 1952 pack, 81.2 percent was Fancy quality and 15.1 percent Extra Standard, compared with 84.8 and 11.8 percent, respectively, in 1951. The following table compares the proportion of the 1952 and 1951 packs in each grade:

Proportion of 1952 Corn Pack in Each Grade

Grade	Yellow		White	
	1951	1952	1951	1952
	(percent)	(percent)	(percent)	(percent)
Fancy	83.0	81.4	83.0	79.1
Extra Standard	11.7	15.2	12.7	14.4
Standard	3.3	3.4	4.3	6.5

Yellow corn accounted for a slightly larger percentage of the total pack in 1952 than last year, the decline in the proportion of yellow corn packed in the eastern states being offset by relatively greater increased packs of yellow corn in the midwestern states.

Proportion of 1952 Corn Pack in Yellow and White Varieties

Area	Yellow		White	
	1951	1952	1951	1952
	(percent)	(percent)	(percent)	(percent)
East	90.3	88.6	9.8	11.4
Midwest	84.6	88.4	15.4	11.6
West	100.0	100.0	...	...
U. S.	87.7	89.7	12.3	10.3

1952 Corn Pack by Region, Variety, and Style

Variety	East	Midwest	West	Total
	(actual cases)		(actual cases)	
Country Gentleman cream style.....	7,222	2,477,937	.....	2,485,159
Country Gentleman whole kernel.....	253,128	189,083	.....	442,211
Other white, cream style.....	40,972	676,896	.....	717,868
Other white, whole kernel.....	241,537	42,660	.....	284,197
Golden Bantam, cream style.....	2,511,785	11,700,118	2,416,600	16,688,563
Golden Bantam, whole kernel.....	1,736,366	14,109,921	1,758,037	17,504,224
U. S. Total.....	4,781,000	29,236,625	4,174,697	38,212,322

Cream style pack accounted for 52 percent of the 1952 pack, continuing the downward trend reflected a year ago when it represented 55 percent of the total pack. Country Gentleman represented 7.7 percent of the 1952 pack as compared with 9.2 percent in 1951.

1952 Corn Pack by States

	1951	1952	Change
	(actual cases)	(actual cases)	(percent)
East:			
Ma., Vt., N. H.	1,112,481	860,432	-23
New York	1,184,322	1,348,603	+14
Md. & Del.	2,022,341	2,007,996	-1
Pennsylvania	736,113	543,170	-19
Other states	32,037	20,799	-35
Midwest:			
Ohio	909,729	1,123,450	+23
Indiana	1,337,245	1,400,948	+11
Illinois	5,460,267	6,554,285	+20
Wisconsin	8,283,004	8,672,724	+64
Minnesota	5,883,205	8,087,836	+37
Iowa & Nebr.	1,637,899	2,904,067	+81
Other states	454,836	363,316	-20
West:			
Western states	4,234,061	4,174,097	-1
U. S. Total	30,188,540	38,212,332	+27

1952 Food Crops

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tion is above the 10-year average for all crops except beets, pimientos, and fall spinach.

Following is a comparison of 1951 production of vegetables for processing with indicated production for 1952, with percentage comparisons:

Crop	1951	1952	Change
	(tons)	(tons)	(percent)
Lima beans	95,126	88,510	-7
Snap beans	275,260	243,600	-22
Beets	151,400	121,000	-20
Cabbage for kraut	101,900	100,000	-2
Corn	1,184,800	1,465,400	+24
Cucumbers for pickles	269,950	336,790	+25
Peas	511,800	432,520	-15
Pimientos	15,300	9,800	-36
Spinach:			
Winter & Spring	97,000	83,350	-13
Fall	13,870	14,070	+6
Tomatoes	4,503,890	3,253,140	-28
Total—10 crops	7,220,800	6,148,780	-15

Deciduous Fruits

Deciduous fruit production in 1952 is estimated at 9 percent below last season and 5 percent below average.

Declines in prospects during October for apples and pears more than offset an increase for grapes. Production is lighter for all deciduous fruits except pears. Apples are turning out even shorter than expected in all regions and are estimated 3.5 percent less than on October 1 and 16 percent less than last year and average. Grapes continued to improve last month and are estimated 12 percent above average but 7 percent below last year.

Citrus production for 1952-53 is indicated 3 percent above the 1951-52 total and 12 percent above average. Florida expects a record crop of oranges but a grapefruit crop a little less than last season. California expects larger citrus crops than last season.

PUBLICITY

Collier's Magazine

The canning and can-making industries are featured in an article in the November 15 issue of *Collier's* under the title, "We Can—And the Reds Cannot." Written by Robert Froman, on assignment by the magazine, the article points out the advantages to the American population and armed forces of canned foods and other canned supplies which the communist population and armies do not enjoy.

The author made use of the recent publicity issued in connection with the observance of the Nicolas Appert birthday and of several of the points emphasizing the public service values of canned foods made in the text of *The Canning Industry*, proofs of which were supplied to him along with other Association literature and suggestions, while the article was in preparation.

The article pays its respects to many ingenious accomplishments of canners and can-makers during the progressive development of these industries and in the recent past. There are illustrations of both types of manufacture, and much of the material was derived from a tour made by the author of the canning areas and from visits to the plants of some of the N.C.A. members.

N.C.A. Claims Service

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which unjust or unfounded claims for damages are made."

The policy of N.C.A. in recommending that its members contest unwarranted claims for damages, according to Mr. Mensor's paper, is based upon these considerations:

"(1) The association maintains a service fully competent to appraise the merits of complaints and claims.

"(2) Thirty years' experience of this service has demonstrated that a large proportion of the claims are either grossly exaggerated or fraudulent.

"(3) Settlement of claims on any basis other than their merit simply breeds more claims, creates more expense, and jeopardizes the reputation of the products of the individual canner and the industry as a whole.

"(4) Vigorous resistance against unwarranted claims is the only effective way to discourage the claim racket. The policy of resisting such claims has two principal objectives: first, to avoid paying tribute in individual cases; second, to expose by investigation and scientific evidence the unjustified character of such claims. Another factor to be considered is the cumulative effect on the public mind resulting from an industry's manifestation of confidence in the wholesomeness of its products.

"If not carefully and intelligently handled, these claims may result in court decisions or settlements that establish dangerous precedents and lead to a great increase in this form of racket. It must be evident to anyone who has given much thought to this subject that the settling of an unjust or unfounded claim without careful investigation is dangerous and short-sighted policy.

"The association believes that the welfare of the canning industry as a whole, as well as the reputation of an individual canner, can best be safeguarded by united and organized effort to investigate every claim carefully, and not by the indiscriminate paying or compromising of claims, irrespective of their merits."

Mr. Mensor concluded:

"Perhaps the best evidence of the merit of the N.C.A. Claims Service is the fact that retail and wholesale distributors throughout the country have generally been satisfied and have required no further assurance of protection when informed that the packer is an association member and relies on the claims service."

Mr. Mensor stated that the policy of his company in handling product liability claims is to preserve the good will of consumers and to suppress fraudulent claims. In this connection, he wrote:

"In our own case—and I understand the same to be true of the majority

of N.C.A. members—product liability insurance is not carried. We consider it neither compatible with the basic policy of consumer good will and discouragement of false claims, nor economically wise. Insurance companies are, of course, engaged in business for profit. If a claim or suit would cost \$200 to defend and it could be settled for \$50, it might be good business for the insurance company to settle. If a multitude of settlements requires an increase in rates, premiums will have to be increased. Nor does the insurance company have any natural desire to protect the packer's good will with the consumer; its temptation is to not pay a product liability claim unless it is economically prudent to do so. As previously stated, we frequently volunteer reimbursement to the claimant for an expenditure which she in good faith incurred, even though we may have no legal liability."

DEFENSE

Feeding of Employees

Amendment 7 to CPR 134 exempts from price control "establishments which are not open to the general public and are operated by or on behalf of industrial or commercial concerns for the purpose of serving meals, food items and beverages to the employees of those concerns: *Provided*, That where an establishment of this kind is operated by a caterer or other person on behalf of an industrial or commercial concern, the latter maintains control of the prices charged for meals, food items and beverages." The amendment was issued and effective November 7.

MEETINGS

N.C.A. Officers Take Part In Food Industry Meetings

N.C.A. President Fred C. Heinz and Vice President Louis Ratzesberger, Jr., took important parts in food trade meetings this week.

Mr. Heinz was a principal speaker at the 48th annual meeting of the Wisconsin Canners Association and Mr. Ratzesberger took part in a panel discussion at the 44th annual meeting of the Grocery Manufacturers of America, Inc.

In a review of the industry's progress in canned foods nutrition, Mr. Heinz pointed out that more is known about the nutritive factors in canned foods than in any other class of processed edibles.

Nutrient tables resulting from years of scientific studies show national averages for 42 staple products most widely in demand and provide a sound basis for controlled medical and institutional use of canned foods, Mr. Heinz stated, and home economists now have available food composition tables for use in selecting canned foods with due regard to their caloric content as well as vitamin and mineral characteristics.

Canned foods afford a plentiful supply of vitamin-rich materials and permit a complete and varied diet on a year-round basis, Mr. Heinz declared.

Mr. Ratzesberger was one of five business leaders invited by GMA to take part in a panel discussion on "The Job Ahead for the Food Industry." Harry Letsche, vice president of the H. J. Heinz Company, also was on this panel.

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